

**HINKLE, JACHIMOWICZ, POINTER & EMANUEL**

GERALD A. EMANUEL, Bar#61049  
2007 West Hedding Street, Suite 100  
San Jose, CA 95128  
Telephone: (408) 246-5500  
Facsimile: (408) 246-1051  
E-mail: [gemanuel@hinklelaw.com](mailto:gemanuel@hinklelaw.com)

Attorneys for Plaintiff  
JENNY WOLFES

**WESTON & McELVAIN LLP**

RICHARD C. WESTON, Bar #126491  
AARON C AGNESS, Bar #221943  
888 West Sixth Street, 15th Floor  
Los Angeles, California 90017  
Telephone: (213) 596-8000  
Facsimile: (213) 596-8039  
E-mail: [rweston@wmattorneys.com](mailto:rweston@wmattorneys.com)  
[aagness@wmattorneys.com](mailto:aagness@wmattorneys.com)

Attorneys for Defendant

THE BURLINGTON INSURANCE COMPANY

**\*E-FILED - 1/14/08\***

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JENNY WOLFES,

Plaintiffs,

vs.

BURLINGTON INSURANCE  
COMPANY AND DOES 1 to 25,  
Inclusive,

Defendants.

CASE NOS. C07 00696 RMW  
C07 04657 RMW

**STIPULATION AND ~~PROPOSED~~  
ORDER TO CONTINUE AND RE-  
NOTICE HEARINGS**

Whereas, settlement negotiations are continuing in the above-captioned actions and the parties have agreed to private mediation to take place in late January or early February of 2008. The pending mediation will involve all parties to underlying state court actions as well as the above-captioned actions. The parties have agreed to Hon. V. Gene McDonald (Ret.) of JAMS as mediator.

1       Whereas, on or about January 7, 2008, the higher-numbered of the two  
2 above-captioned actions, Case No. C07 04654, was reassigned to Hon. Ronald M.  
3 Whyte of this Court. At the time of reassignment, defendant The Burlington  
4 Insurance Company ("Burlington") had two motions set to be heard on January  
5 28, 2008. In accordance with Civil Local Rule 3-12(g), all motion hearings  
6 pending in that case were vacated and must be re-noticed by the moving party.

7       Whereas, Plaintiff Jenny Wolfes ("Wolfes") currently has a Motion for  
8 Partial Summary Judgment pending in Case No. C07 00696 RMW, which is set to  
9 be heard on February 8, 2008.

10       Whereas, Burlington and Wolfes agree that there is a better likelihood of  
11 resolving these matters if the attention is focused on the impending mediation(s)  
12 rather than further discovery and motion work.

13       Whereas, Burlington and Wolfes agree that in order to conserve both the  
14 parties' and Court's respective time and resources, it is beneficial to have the  
15 aforementioned motions heard on the same date.

16       Therefore, through their respective counsel of record, the parties hereby  
17 stipulate to the following:

- 18       1. Burlington's Motion to Dismiss filed in Case No. C07 04657 and  
19       previously set to be heard on January 28, 2008, which was vacated on or  
20       about January 7, 2008 when the case was reassigned to Judge Whyte,  
21       shall be re-noticed for hearing on March 14, 2008 at 9am in Courtroom 6.
- 22       2. Burlington's Motion to Strike filed in Case No. C07 04657 and  
23       previously set to be heard on January 28, 2008, which was vacated on or  
24       about January 7, 2008 when the case was reassigned to Judge Whyte,  
25       shall be re-noticed for hearing on March 14, 2008 at 9am in Courtroom 6.

26       ///

27       ///

28       ///

1 3. Wolfes' Motion for Partial Summary Judgment filed in Case No. C07  
2 00696 RMW that is currently set to be heard on February 8, 2008 shall  
3 be continued to March 14, 2008 at 9am in Courtroom 6.  
4

5 **IT SO STIPULATED.**

6 Dated: January 11, 2008

HINKLE, JACHIMOWICZ, POINTER &  
EMANUEL

8  
9 By: 

Gerald A. Emanuel  
Attorneys for Plaintiff  
JENNY WOLFES

10  
11  
12 Dated: January 11, 2008

WESTON & McELVAIN LLP

13  
14 By: 

Aaron C. Agness  
Attorneys for Defendant  
THE BURLINGTON INSURANCE  
COMPANY

15  
16  
17  
18 PURSUANT TO STIPULATION, IT IS HEREBY ORDERED,  
19 ADJUDGED AND DECREED THAT:

20 The matters set forth in paragraph Nos. 1 through 3 of the Stipulation to  
21 Continue and Re-Notice Hearings are hereby granted. Counsel shall resubmit a  
22 Chambers Copy of the pending motions in case no.: C-07-04657.

23 Dated: January 14, 2008

24 By: 

Hon. Ronald M. Whyte  
U.S. District Court Judge